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**Federal Transit
Administration**

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REGION 10 BULLETIN NO: 07-31

SUBJECT: Guidance on New Starts Grants

PROGRAM AREAS: Grants

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We want to remind everyone of the fundamental difference between pre-award authority for acquisition of real property and an award of New Starts funds for property acquisition. A grant applicant exercises pre-award authority for property acquisition at its own risk, but the Federal Transit Administration (FTA) should not award a grant of New Starts funds for property acquisition until the New Starts project has been approved into Final Design.

As you know, beginning in 2003, FTA extended pre-award authority for the acquisition of real property for New Starts projects upon issuance of a Record of Decision (ROD), Finding of No Significant Impact (FONSI), or Categorical Exclusion (CE) in accordance with the National Environmental Policy Act (NEPA). This pre-award authority is strictly limited to costs incurred to acquire real property and to provide relocation assistance in accordance with the Uniform Relocation Act and its implementing regulation. This pre-award authority does not constitute a commitment of any Federal funding for the project. FTA allows New Starts grant applicants to use pre-award authority to streamline the project delivery process, enhance relocation services for residents and businesses, and avoid the escalation in the cost of real property caused by delays in its acquisition. The grant applicant assumes a risk in acquiring real property without an FTA commitment, but that risk is somewhat mitigated by the re-sale value of the real property, in the event that FTA funding assistance is not ultimately forthcoming and the project is not executed.

Recent experience demonstrates, however, that even if we have completed the NEPA process, it is not wise to award New Starts funds for a project implementation activity such as property acquisition until that project has been approved into Final Design by FTA. It is only when a project has entered Final Design that FTA can be confident that the project will continue to progress toward a Full Funding Grant Agreement. We need to avoid any more instances in which significant amounts of New Starts funds were awarded for property acquisition for a project that languished in Preliminary Engineering and ultimately fell out of the New Starts pipeline because of an inability to meet the Section 5309 criteria for project justification or local financial commitment.

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Sincerely,

Linda M. Gehrke

R.F. Krochalis
Regional Administrator

for